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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,926	09/11/2003	Mazen Chmaytelli	990545	8382
23696 7590 04/11/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER HALIYUR, VENKATESH N	
			ART UNIT	PAPER NUMBER
			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/11/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/661,926		CHMAYTELLI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Venkatesh Haliyur		2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some \* c) ☐ None of:
    - 1. ☐ Certified copies of the priority documents have been received.
    - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-29 are pending in the application.

#### ***Claim Objections***

2. Claim 1 is objected to because it is not distinguishable clearly the preamble from the body of the claim. Preamble must be terminated with a ":" before beginning the body of the claim. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-29 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter.

Regarding claims 21-29, Claim 21 is directed to a "A computer program that, when executed by a computer device having wireless communication capability, causes the device to perform the steps of: ..." which fails to meet 101 interim guidelines set forth therein. In order for a computer program or software instructions to be statutory it must be embodied in a computer readable medium. Also the phrase "having wireless

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communication capability" fails to meet the interim guidelines set forth therein. It is well established that a software application, i.e. computer program, per se is not physical "thing". The computer program does not define any structural and functional interrelationship between the computer program and the rest of the computer, which permits the computer program's functionality to be realized. Hence claimed application in claims 21-29 is nothing but a software application.

Regarding claims 11-20, these claims are written in the form of "method". However as evidenced in claim 21, claims 11-20 are claiming software in the form of method. Note that claim 11 mirrors claim 21 in all respects except for the preamble and in light of the specification it is nothing more than the computer program or instructions of the application and therefore is non-statutory. Thus, claims 11-21 are non-statutory.

Thus, claims 11-29 are non-statutory since the patent protection sought by the claimed invention is for the computer program in the abstract.

5. Claim Rejections - 35 USC § 112 The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a computer device, does not reasonably provide enablement means for wireless functionality. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to

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the multiple functional elements (see para 0014-0018 page 3 &4 of the specification) of the invention commensurate in scope with these claims. The claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1,11,20,21, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims recite the phrase "wireless communication capability" which renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

9. Regarding claim 20, the word "means" is preceded by the word(s) "A computer device, comprising:" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. Claim 20 recite the phrase "means for wireless communication selectively receiving an attempted communication connection across a wireless network" without any functional element(s) to select a type(s) of wireless communication attempts (signals) across the wireless network.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Jiang et al [US Pub: 2002/0057678].

Regarding claim 1,11,20-21 Jiang et al in the invention of "Method and System for Wireless Channel/Data Channel Integration" disclosed a computer device (**wireless gateway system, items 300 & 310 of Fig 3**) having wireless communication capability and selectively receiving an attempted communication connection across a wireless network (**through various wireless gateways, items 310 of Fig 3, para 0070, lines 1-8**), the wireless device (**items 310 of Fig 3**) classifying (**service types**) attempted communication connections (**SMS, WAP, PQF, IVR, XML connections, para 0070, lines 9-17**) and performing a predetermined response to a communication connection attempt based upon the classification of the attempted communication connection (**response based on the wireless device and type, para 0071, lines 1-15**) [Figs 3-5].

Regarding claims 2-3,12-13,22-23, Jiang et al disclosed that the predetermined response is to block the incoming communication connection attempt (**allow user access by verifying wireless device identity, para 0071, lines 1-21**) and the

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predetermined response includes an audio response (**CTI/IVR-interactive voice response**), to the incoming communication connection attempt (**para 0072, lines 1-8**).

Regarding claims 4-5,14-15,24-25, Jiang et al disclosed the predetermined response is to request user input as to whether to accept the incoming communication (**check device entry request at device management, item 410 of Fig 4, para 0071, lines 1-15**) and the predetermined response is to return a data response to the incoming communication attempt (**return menu item data from session management, item 412 of Fig 4, para 0071, lines 13-22**).

Regarding claims 6-7,16-17,26-27, Jiang et al disclosed that the classification of the incoming communication attempt occurs from identifying the telephone number of a calling telephone making incoming communication attempt to the device (**allow user access by verifying wireless device identity, para 0071, lines 1-21**) and the classification (**provide IVR services based on CallerID**) occurs through the receipt of Caller ID for the incoming communication attempt (**para 0280-0281**).

Regarding claims 8-9, 18-19, 28-29, Jiang et al disclosed the classification occurs through the receipt of identity data within the incoming communication attempt (**para 0077**) and the predetermined response (**provide user with to select a URL response**) is to send an SMS message to the device making the incoming communication attempt (**para 0083, Fig 6**).

Regarding claim 10, Jiang et al disclosed a computer device (**wireless gateway system, items 300 & 310 of Fig 3**), comprising: means for wireless communication selectively receiving an attempted communication connection across a wireless network



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**(through various wireless gateways, items 310 of Fig 3, para 0070, lines 1-8);**  
means for classifying **(service types)** attempted communication communications **(SMS, WAP, PQF, IVR, XML connections, para 0070, lines 9-17);** and means for performing a predetermined response to a communication connection attempt based upon the classification of the attempted communication connection **(response based on the wireless device and type, para 0071, lines 1-15) [Figs 3-5].**

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616. The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached @ (571)-272-7493. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you



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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Venkatesh Haliyur

Patent Examiner

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03/30/07

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